

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4904/2017

Amit S/o Prakash Chauhan
..VS..
Sau. Sonal W/o Amit Chauhan

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.D. Deshpande, Advocate for the petitioner
Shri C.R. Sharma, Advocate for the respondent

CORAM : Z.A.HAQ, J.
DATED : 07/02/2019

This petition under Articles 226 and 227 of the Constitution of India is filed by the petitioner – husband to challenge the order passed by the Family Court directing him to pay interim maintenance. The husband had filed petition before the Family Court praying for decree for restitution of conjugal rights. In these proceedings, the respondent – wife filed an application praying that the husband be directed to pay interim maintenance. By the impugned order dated 01/03/2016, the Family Court directed the husband to pay Rs. 22,000/- pm to the wife and Rs. 8,000/- pm to the son towards interim maintenance, from the date of filing of the application i.e. from 06/02/2016. Though it is difficult to find out from the record the further progress of these proceedings before the Family Court, the advocates for the petitioner as well as the respondent have submitted that Petition No. AP - 178/2015 in which this order dated 01/03/2016 was passed, is withdrawn by the husband on 21/04/2016. Both the advocates have submitted that the amount payable by the husband as per the order dated 01/03/2016 is paid to the

wife. I fail to understand that in these facts, why the petitioner has challenged the order dated 01/03/2016 by filing this petition on 05/06/2017.

By prayer clause (iii), the petitioner – husband has prayed that the application which was filed by the wife under Section 24 of the Hindu Marriage Act be dismissed. This application under Section 24 of the Hindu Marriage Act was filed by the respondent – wife in Petition No. AP – 178/2015 and order was passed on it on 01/03/2016. For the reasons as recorded in the earlier paragraph, this prayer cannot be granted. In fact, it is not understood as to why the petitioner has made this prayer after withdrawing the proceedings and accepting the order dated 01/03/2016.

The other part of prayer clause (iii) of the petition is that the application filed by the wife under Section 125 of the Code of Criminal Procedure be dismissed. It is not pointed out as to how such relief can be granted exercising extraordinary jurisdiction.

The advocate for the respondent – wife has made a grievance that the petitioner – husband is abusing the process of law, creating unwanted litigation and is avoiding to pay maintenance as directed by the Competent Court. It is submitted that because of the conduct and attitude of the petitioner, education of the minor son is also adversely affected.

Considering the facts of the case, the writ petition is **dismissed** with costs quantified at Rs. 50,000/- (Rs. Fifty Thousand) to be paid by the petitioner – husband to the respondent – wife.

The amount shall be paid by Demand Draft or it shall be deposited before the Family Court, Akola till 15/03/2019.

CIVIL APPLICATION (W) NO. 334/2019

In view of the dismissal of the writ petition, this application praying for grant of permission to place on record the additional documents does not survive. It is **disposed** accordingly.

JUDGE

Ansari